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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 22, 25, and 52**

**[FAC 2005-71; FAR Case 2013-019; Item II; Docket No. 2013-0019, Sequence No. 1]**

**RIN 9000-AM66**

**Federal Acquisition Regulation; New Designated Country—Croatia**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to add Croatia as a new designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). On July 1, 2013, Croatia joined the European Union, which is a party to the WTO GPA.

**DATE:** Effective: **[Insert date of publication in the FEDERAL REGISTER.]**

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at 202-219-0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-71, FAR Case 2013-019.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The European Union is a party to the WTO GPA and has assumed rights and obligations under the WTO GPA on behalf of its member states. On July 1, 2013, Croatia became a member of the European Union. Therefore, the European Union has committed to assume rights and obligations on behalf of Croatia under the WTO GPA. On June 27, 2013, the WTO Committee on Government Procurement approved the application of the WTO GPA to Croatia. The United States, which is also a party to the WTO GPA, has agreed to waive discriminatory purchasing requirements for eligible products and supplies of Croatia (see 78 FR 60368, dated October 1, 2013).

Therefore, this rule adds Croatia to the list of WTO GPA countries wherever it appears in the FAR, whether as a separate definition, as part of the definition of "designated country" or "Recovery Act designated country", or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor (FAR 22.1503, 25.003, 52.222-19, 52.225-5, 52.225-11, and 52.225-23).

Likewise, as a member of the European Union, Croatia also is a party to the Agreement on Trade in Civil Aircraft (FAR 25.407 and 52.225-7).

Conforming changes were required to FAR 52.212-5, Contract Terms and Conditions Required to Implement Statute or Executive Orders—Commercial Items, and 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

**II. Publication of this final rule for public comment is not required by statute**

"Publication of proposed regulations," 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it is just updating the lists of designated countries and countries that are party to the Agreement on Trade in Civil Aircraft, in order to reflect the fact that Croatia is now a member of the European Union.

**III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### **IV. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision and 41 U.S.C. 1707 does not require publication for public comment.

#### **V. Paperwork Reduction Act**

The Paperwork Reduction Act does apply, because the rule affects the response of an offeror that is offering a product of Croatia to the information collection requirements in the provisions at FAR 52.212-3(g)(5), 52.225-6, 52.225-11, and 52.225-23. The offeror no longer needs to list a product from Croatia under "other end

products", because Croatia is now a designated country. These information collection requirements are currently approved under OMB Control Numbers 9000-0136: Commercial Item Acquisitions, 9000-0025: Buy American Act, Trade Agreements Act Certificate, and 9000-0141: Buy American—Construction, respectively. The impact, however, is negligible.

**List of Subjects in 48 CFR Parts 22, 25, and 52**

Government procurement.

Dated: November 18, 2013.

William Clark,  
Acting Director,  
Office of Government-wide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

## **PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

### **22.1503 [Amended]**

2. Amend section 22.1503 by removing from paragraph (b)(4) "Bulgaria, Cyprus" and adding "Bulgaria, Croatia, Cyprus" in its place.

## **PART 25—FOREIGN ACQUISITION**

### **25.003 [Amended]**

3. Amend section 25.003 by—

a. Removing from the definition "Designated country", in paragraph (1), "Canada, Cyprus" and adding, "Canada, Croatia, Cyprus" in its place; and

b. Removing from the definition "World Trade Organization Government Procurement Agreement (WTO GPA) country", "Canada, Cyprus" and adding "Canada, Croatia, Cyprus" in its place.

## **SUBPART 25.4—TRADE AGREEMENTS**

### **25.407 [Amended]**

4. Amend section 25.407 by removing "Canada, Cyprus"

and adding "Canada, Croatia, Cyprus" in its place.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

5. Amend section 52.212-5 by revising the date of the clause and paragraphs (b) (27) and (b) (41) to read as follows:

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.**

\* \* \* \* \*

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER])

\* \* \* \* \*

(b) \* \* \*

\_\_\_\_ (27) 52.222-19, Child Labor—Cooperation with Authorities and Remedies ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER]) (E.O. 13126).

\* \* \* \* \*

\_\_\_\_ (41) 52.225-5, Trade Agreements ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER]) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

\* \* \* \* \*

6. Amend section 52.213-4 by revising the date of the clause and paragraph (b) (1) (ii) to read as follows:

**52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).**

\* \* \* \* \*

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL  
ITEMS) ( [INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE  
FEDERAL REGISTER] )

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) 52.222-19, Child Labor—Cooperation with  
Authorities and Remedies ( [INSERT ABBREVIATED MONTH AND YEAR OF  
PUBLICATION IN THE FEDERAL REGISTER] ) (E.O. 13126). (Applies to  
contracts for supplies exceeding the micro-purchase  
threshold.)

\* \* \* \* \*

7. Amend section 52.222-19 by—

a. Revising the date of the clause; and

b. Removing from paragraph (a)(4) "Bulgaria, Cyprus"  
and adding "Bulgaria, Croatia, Cyprus" in its place.

The revision reads as follows:

**52.222-19 Child Labor—Cooperation with Authorities and  
Remedies.**

\* \* \* \* \*

CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES ( [INSERT  
ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER] )

\* \* \* \* \*

8. Amend section 52.225-5:

a. By revising the date of the clause; and

b. In paragraph (a), in paragraph (1) of the  
definition of "Designated country", by removing "Canada,  
Cyprus" and adding "Canada, Croatia, Cyprus" in its place.

The revisions reads as follows:

**52.225-5 Trade Agreements.**

\* \* \* \* \*

TRADE AGREEMENTS ( [INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN  
THE FEDERAL REGISTER] )

\* \* \* \* \*

9. Amend section 52.225-7 by—

- a. Revising the date of the provision; and
- b. Removing from paragraph (b) "Canada, Cyprus" and adding "Canada, Croatia, Cyprus" in its place.

The revised text reads as follows:

**52.225-7 Waiver of Buy American Act for Civil Aircraft and Related Articles.**

\* \* \* \* \*

WAIVER OF BUY AMERICAN ACT FOR CIVIL AIRCRAFT AND RELATED ARTICLES  
( [INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER] )

\* \* \* \* \*

10. Amend section 52.225-11:

- a. By revising the date of the clause; and
- b. In paragraph (a), in paragraph (1) of the definition of "Designated country", by removing "Canada, Cyprus" and adding "Canada, Croatia, Cyprus" in its place.

The revision reads as follows:

**52.225-11 Buy American Act—Construction Materials under Trade Agreements.**

\* \* \* \* \*

BUY AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS  
( [INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL  
REGISTER] )

\* \* \* \* \*

11. Amend section 52.225-23:

a. By revising the date of the clause;

b. In paragraph (a), in paragraph (1) of the definition of "Designated country", by removing "Canada, Cyprus" and adding "Canada, Croatia, Cyprus" in its place; and

c. By removing from paragraph (a), in paragraph (1) of the definition of "Recovery Act designated country", "Canada, Cyprus" and adding, "Canada, Croatia, Cyprus" in its place.

The revision reads as follows:

**52.225-23 Required Use of American Iron, Steel, and  
Manufactured Goods—Buy American Act—Construction Materials  
Under Trade Agreements.**

\* \* \* \* \*

REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS—BUY  
AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS. ( [INSERT  
ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER] )

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[BILLING CODE 6820-EP]

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